

Hearing Date: November 1, 2021 at 9:30AM (Atlantic Standard Time)
Objection Deadline: October 15, 2021 at 4:00PM (Atlantic Standard Time)

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

In re:
THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,
as representative of
THE COMMONWEALTH OF PUERTO RICO, THE
EMPLOYEES RETIREMENT SYSTEM OF THE
GOVERNMENT OF THE COMMONWEALTH OF
PUERTO RICO, AND THE PUERTO RICO PUBLIC
BUILDINGS AUTHORITY,
Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO, as
representative of THE COMMONWEALTH OF
PUERTO RICO, THE EMPLOYEES RETIREMENT
SYSTEM OF THE GOVERNMENT OF THE
COMMONWEALTH OF PUERTO RICO, AND THE
PUERTO RICO PUBLIC BUILDINGS AUTHORITY,

Movant,

v.

AMERINATIONAL COMMUNITY SERVICES, LLC,
as servicer for the GDB Debt Recovery Authority, and
CANTOR-KATZ COLLATERAL MONITOR LLC

Respondents.

**DEBTORS' NOTICE OF MOTION AND MOTION FOR ORDER
EXCLUDING EXPERT TESTIMONY OF DOUGLAS J. BRICKLEY**

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

PLEASE TAKE NOTICE that the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the sole Title III representative of Debtors the Commonwealth of Puerto Rico (the “Commonwealth”), the Puerto Rico Public Buildings Authority (“PBA”), and the Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS,” and together with the Commonwealth and PBA, the “Debtors”) pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),² requests this Court to issue an order, substantially in the form of the proposed order attached hereto as **Exhibit A**, precluding AmeriNational Community Services, LLC, as servicer for the GDB Debt Recovery Authority, and Cantor-Katz Collateral Monitor LLC, a Delaware limited liability company (collectively, the “DRA Parties”), from offering expert testimony by Douglas J. Brickley (“Mr. Brickley”), or his expert report, at the hearing on the *Seventh Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, et al.* [ECF No. 17627] (as it may be amended, modified, or supplemented, the “Plan”).

This Motion is made on the ground that, as set forth in detail in the accompanying *Memorandum of Law in Support of Debtors’ Motion for Order Excluding Expert Testimony of Douglas J. Brickley*, the September 13, 2021 *Preliminary Expert Report of Douglas J. Brickley*,³ upon which any testimony by Mr. Brickley would be derived, demonstrates his proposed testimony (i) does not qualify as permissible expert evidence pursuant to Rule 702 of the Federal Rules of Evidence, (ii) is not relevant to any objection the DRA Parties can put forward to Plan

² PROMESA is codified at 48 U.S.C. §§ 2101–2241.

³ The DRA Parties filed a redacted copy of the expert report by Mr. Brickley as Exhibit A to their September 20, 2021 *Motion in Response to the Order Concerning Service of Opening Expert Reports by the DRA Parties, Request for Extension of Time to File Redacted DRA Expert Reports, and Request for Modification of Certain Terms of the Confirmation Procedures Order* [ECF No. 18163-1]. The Oversight Board understands the DRA Parties provided an unredacted copy of the expert report to the Court.

confirmation, and (iii) is not relevant to the issues to be determined at confirmation, and therefore should be precluded in its entirety.

This Motion is based on this Notice of Motion, the *Memorandum of Law in Support of Debtors' Motion to Exclude Expert Testimony of Douglas J. Brickley* filed concurrently herewith, the Plan, the papers, pleadings and records on file herein, and any argument of counsel.

Pursuant to the *Order Establishing Procedures and Deadlines Concerning Objections to Confirmation and Discovery in Connection Therewith* [ECF No. 17640] (the "Confirmation Discovery Procedures Order"), this Motion will be heard before the Honorable Laura Taylor Swain, United States District Judge, on November 1, 2021 at 9:30 a.m. (AST), or as soon thereafter as counsel may be heard, in the United States District Court for the District of Puerto Rico, 150 Carlos Chardón Avenue, Federal Building, San Juan, Puerto Rico, or as otherwise directed by the Court.

Pursuant to ¶ 2.a.(i)(A) of the Court's *Third Amended Standing Order* dated March 3, 2021 [ECF No. 15901-1], counsel for the Debtors and the DRA Parties have met and conferred in an attempt to resolve the matters set forth in this Motion. Despite the parties' best efforts, the parties have not resolved the matters in controversy, necessitating the filing of this Motion.

Pursuant to the *Fifteenth Amended Case Management Procedures* (the "Case Management Procedures") [ECF No. 17127-1], and the Confirmation Discovery Procedures Order, any objection to this Motion shall be filed and served on Debtors through their undersigned counsel by **October 15, 2021 at 4:00 p.m. (Atlantic Standard Time)**. The relief requested may be granted without hearing if no objection is timely filed and served in accordance with the Case Management Procedures and the Confirmation Discovery Procedures Order.

In accordance with the Court's standing orders, the Case Management Procedures, and the Confirmation Discovery Procedures Order, the Oversight Board has provided notice of this motion, in the form of paper copies thereof sent by first class mail or digital copies sent by email, to (a) all creditors who filed notices of intent to participate in discovery in connection with confirmation proceedings, (b) all creditors who have filed objections to confirmation, (c) all creditors who filed notices of correspondence, and (d) the Master Service List (as defined in the Case Management Procedures), which is available on the Debtors' case website at <https://cases.primeclerk.com/puertorico>. The Oversight Board submits that, in light of the nature of the relief requested, no other or further notice need be given.

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Dated: September 30, 2021
San Juan, Puerto Rico

/s/ Hermann D. Bauer

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notifications of such filing to all CM/ECF participants in this case, and further caused notice to be delivered as described in the motion.

/s/ Hermann D. Bauer
Hermann D. Bauer